

10/525560

PATENT COOPERATION TREATY

REC'D 13 JAN 2005

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)



Applicant's or agent's file reference SJ-11755WO	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/CA 03/01047	International filing date (day/month/year) 22.07.2003	Priority date (day/month/year) 26.08.2002
International Patent Classification (IPC) or both national classification and IPC A47C9/00		
Applicant CASSADAY, Terry		

- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 5 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

- This report contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 23.03.2004	Date of completion of this report 12.01.2005
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Lassen, S Telephone No. +49 89 2399-2320 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/CA 03/01047**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-10 as originally filed

Claims, Numbers

1-17 as originally filed

Drawings, Sheets

1/6-6/6 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

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5. ☒ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

see separate sheet

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	3-17
	No: Claims	1, 2
Inventive step (IS)	Yes: Claims	
	No: Claims	1-17
Industrial applicability (IA)	Yes: Claims	1-17
	No: Claims	

2. Citations and explanations

see separate sheet

Re item V

1. The set of claims received on 26 November 2004 and comprising claims 1-8 - with a slightly modified claim 1 as compared to previous claim 1 included in the set of claims received on 4 August 2004 - has been amended in such a manner as to infringe Article 34(2)(b) PCT with respect to the originally filed claims, cf. also Rule 70(2)(c) PCT. It is noted that the previous set of claims of 4 August 2004 infringed in like manner. More specifically, the most recent claim 1 of 26.11.2004 specifies the means having an electrical power requirement to be "...an information output device which outputs information..." and moreover specifies the energy converter to power said information output device.
2. Claim 1 as originally filed solely addressed in a broad form means having electrical power requirements and an energy converter to meet said power requirements; no specific type of means were defined.
3. The original disclosure and claims address some few elements that can be termed "output information devices" (voice chips/speakers and displays, cf. also org. claims 6 and 9) and some other elements that do not fall in this category (blowers, sensors, lumbar supports, vibrator heaters, cf. also org. claims 3, 8, 10 and 13). As regards said "output information devices" there is no indication whatever throughout the specification as a whole that other than the few explicitly mentioned devices plausibly were intended to be included under the (now included) broader term 'output information devices' at the time of the original filing. Consequently, there is no basis for broadening the scope of protection to include any and all sort of means that can and may be included under the wording "output information devices". It is noted that if the applicant had the intention to limit the scope to one or more of these specific output information devices, any such device(s) would have to be included in claim 1 in explicit form, eg. as a positive listing.
4. Hence, this amendment introduced with the claims of 26.11.2004 amounts to a broadening of the scope of the claims. Consequently, also the second amended set of claims has to be disregarded when establishing the present opinion, the latter instead being based on the originally filed claims 1-17, cf. the PCT Guidelines, item 20.10 (as in force from 25.03.2004).
5. Each of documents US-A-5 090 770 (hereinafter D1), US-A-5 556 163 (D2) and

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International application No. PCT/CA 03/01047

DE-A-38 03 903 (D3) discloses a 'member' and 'means', resp., as broadly defined by original claim 1. In consequence, this claim 1 does not meet the requirements of Art. 33(2) PCT (lack of novelty). For the sake of completeness it is noted that applicant's own WO-A-02 417 35 (D4) discloses all the features of claim 1 of 26.11.2004 - including 'information output means', cf. eg. page 5, lines 3 to 11 - (and of a number of the dependent claims) with the sole exception that an energy converter is not present. However, based on the fact documents D1-D3 disclose the use of a power converter (in the form of a solar panel) meeting the general power converter form specified, even a non-broadening, fresh claim 1 drafted along these lines would seem to lack inventive step, Art. 33(3) PCT, when considered in the light of D4 in combination with any of D1-D3. In extension of the latter consideration it would thus appear that no combination of original claim 1 with the features of any of the dependent claims 2-17 would result in technical matter meeting the requirements of Arts. 33(2) and 33(3) PCT. Finally it is noted that the purported advantages embodied by the present invention, as outlined in the reply of 26.11.2004, do not appear to be directly and unambiguously derivably from the subject-matter of the independent claim and thus unable to assist in meeting the requirements of Art. 33(3) PCT.